

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

The amendment rescinds subrule 61.7(2), which pertains to beach use and swimming, and adopts a new subrule in order to restructure the content to include a new subparagraph. The new subparagraph contains a provision to allow persons to register at a park to swim outside the designated swim area from sunrise to sunset. The new subparagraph also provides conditions the swimmer must follow for visibility purposes. Those conditions include that the swimmer must be accompanied by a person in a vessel at all times and that the swimmer must stay within 20 feet of the vessel at all times. In addition, the vessel must display a 12-inch-square, bright orange flag which can be seen all around the horizon. These changes are a result of a petition for rule making received from a triathlete who requested a change to allow triathletes the opportunity to train in state park and state recreation area lakes outside the designated swim area.

Any interested person may make written suggestions or comments on the proposed amendment on or before February 3, 2009. Such written materials should be directed to the State Parks Bureau, Department of Natural Resources, 502 East Ninth Street, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)242-6233 or at the State Parks Bureau offices on the fourth floor of the Wallace State Office Building.

There will be public hearings on February 3, 2009, from 2 to 4 p.m. and from 6 to 8 p.m. at the Wickiup Hills Outdoor Learning Center near Toddville, and on February 4, 2009, at 10 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, Des Moines, at which time persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 461A.35 and 461A.44.

The following amendment is proposed.

Rescind subrule 61.7(2) and adopt the following new subrule in lieu thereof:

61.7(2) Beach use/swimming.

a. Except as provided in paragraphs "*b*" and "*c*" of this subrule, all swimming and scuba diving shall take place in the beach area within the boundaries marked by ropes, buoys, or signs within state parks and recreation areas. Inner tubes, air mattresses and other beach-type items shall be used only in designated beach areas.

b. Persons may scuba dive in areas other than the designated beach area provided they display the diver's flag as specified in rule 571—41.10(462A).

c. Swimming outside beach area.

(1) Persons may swim outside the beach area under the following conditions:

1. Swimming must take place between sunrise and sunset;

2. The swimmer must be accompanied by a person operating a vessel and must stay within 20 feet of the vessel at all times during the swim;

3. The vessel accompanying the swimmer must display a flag, which is at least 12-inches square, is bright orange, and is visible all around the horizon; and

4. The person swimming pursuant to this subparagraph must register with the park staff in charge of the area and sign a registration immediately prior to the swim.

(2) Unless swimming is otherwise posted as prohibited or limited to the designated beach area, a person may also swim outside the beach area provided that the person swims within ten feet of a vessel which is anchored not less than 100 yards from the shoreline or the marked boundary of a designated beach. Any vessel, except one being uprighted, must be attended at all times by at least one person remaining on board.

(3) A passenger on a sailboat or other vessel may enter the water to upright or repair the vessel and must remain within ten feet of that vessel.

d. The provisions of paragraph “a” of this subrule shall not be construed as prohibiting wading in areas other than the beach by persons actively engaged in shoreline fishing.